

Enterprise Contract Management Section
Technology Sourcing Office

Enterprise Contract Management Section Audit

Internal Audit Report 13-103

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Executive Summary

This report provides the details of the audit of the Enterprise Contracts Management Section (ECMS) of the Technology Sourcing Office. The audit was part of the Fiscal Year 2013 Internal Audit Plan approved by the DIR Board. The scope of the audit included ECMS activity in fiscal year 2013.

The objectives of the audit were to determine if the Enterprise contracts are being monitored appropriately and whether they include language for measurable deliverables, performance, and whether the section is consistently processing and documenting contract amendments. We examined the organization of the section, contract administration controls, and the section workload activity.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We determined that ECMS has established a number of suitable internal controls within the contracting process that satisfy the objectives. We did make one recommendation concerning the contract management workload.

- DIR should consider additional FTE's to help alleviate the workload on the section manager.

Introduction

An internal audit of the Enterprise Contracts Management Section was included in the 2013 audit plan that was approved by the DIR Board of Directors. The Enterprise Contract Management Section is within the Technology Sourcing Office (TSO) and is responsible for the contract development and management of the major areas of contracts handled by DIR such as the Data Center contracts and the telecommunications contracts. The Section has not been recently audited by the Texas State Auditor's Office; however, the Section was included in the Sunset Advisory Commission Review process in 2010, and again in the Sunset Advisory Commission re-examination in 2012. We verified the implementation of the Sunset recommendations related to the ECMS for both 2010 and 2012; all of the recommendations had been implemented.

Internal Audit wishes to thank the Enterprise Contract Management Section for their time and cooperation during this audit.

Objective, Scope, and Methodology of Work

The objectives of this audit were to:

- Determine if the DIR Enterprise Contracts are being monitored appropriately and whether they include language for measurable deliverables and performance.
- Examine how the department is organized and the controls in place for contract administration.
- Determine how the department's workload is allocated and if the department is adequately staffed and knowledgeable to keep up with the workload.
- Determine if the 2010 Sunset Review recommendations related to the Enterprise Contracts Management Section (ECMS) have been implemented and test the corrective actions taken. Also, examine the 2012 Follow-up Sunset Review recommendations related to the Enterprise Contracts Management Section.

The scope of the audit included a review of the ECMS organization, workload and staffing, contract amendments, audit clauses, contract deliverables and contract monitoring; walkthroughs of various processes relating to the management of the Enterprise Contracts, and reviews of the 2010 and 2012 Sunset Advisory Commission Recommendations as they relate to the ECMS. The audit was conducted during fiscal year 2013 (from September 1, 2012 to August 31, 2013) and was part of the Fiscal Year 2013 Internal Audit Plan approved by the DIR Board. Although there are no statutes that directly address the ECMS, the following statutes from the Texas Government Code, Chapter 2054, pertain to the three major enterprise contracts: Subchapter H pertains to Telecommunications, Subchapter F and I pertain to the TexasOnline Project (Texas.gov), and Subchapter L pertains to Statewide Technology Centers (Data Center Services). Texas Government Code Chapter 2170 also pertains to Telecommunications.

The audit methodology consisted of reviewing the ECMS contracting processes and procedures; interviewing the management and staff of the ECMS; collecting and reviewing contracting documents, testing samples of contracting documents; examining job descriptions, the ECMS's organization, and staffing. We attended contract administration meetings and a pre-bid conference; conducted walk-throughs of processes; observed contract management tools and monitoring procedures; and analyzed documents related to deliverables, workflow, amendments and audit clauses. We developed a staffing workload analysis related to the contracts and tasks managed by the ECMS staff. Also, we reviewed the 2010 and 2012 Sunset Advisory Commission recommendations and verified the corrective actions taken.

Background

The Enterprise Contracts Management Section is a part of the Technology Sourcing Office of the DIR. This Section is responsible for managing the major contracts established by DIR, as well as some additional contracts. Most are large, complex, multi-year, multi-million dollar, and in most cases, multi-vendor, contracts. The Section also manages smaller contracts with many vendors. The contract management work includes oversight functions for the contract, serving as a liaison and escalation point between customer agencies and service providers, and interpreting the contracts. Detail regarding the contracts, as well as the contracts themselves, can be found on the DIR website.¹

The ECMS developed a procedures manual in February 2012, which is entitled the “Enterprise Contracts Management Guide”. The Guide is used by the staff to refer to the Section’s operating procedures and is also used to train new staff. Along with the Guide, the ECM staff has a comprehensive list of appendices, or templates, which are used in the contracting process. Also, in 2012 the Section conducted contract management training for contract management staff, program area staff, executive management, and the DIR Board members.

Prior to 2012, there were two separate contracting divisions within DIR -- the Cooperative Contracts Division and the Enterprise Contracts Division. Then in 2012, DIR Executive Management determined that to foster a consistent approach to procurement and contracting within the agency, all procurement related functions (i.e. contracts, and sourcing analytics) would be organized into one office, the Technology Sourcing Office (TSO). The TSO includes three sections: Sourcing Analytics, Contract and Vendor Management (formerly Cooperative Contracts), and the Enterprise Contracts Management.

The ECMS continues to grow and change rapidly. During the audit, the responsibility for managing three new areas was transferred from the Contract and Vendor Management Section to the ECMS. The areas transferred are the DBITS contracts, the Managed Services contracts, and the Cloud Services contracts. All the new contracts are now managed by contract administration managers in the ECMS.

Attachment 1 has the specific details related to the Enterprise Contracts. In general, the Enterprise Contracts are:

- Data Center Services
- Texas.gov
- Telecommunications
- Other contracts administered by the ECMS include the : Cloud Services, Deliverables Based Information Technology Services (DBITS), Staff Augmentation , Major Software

¹ <http://www.dir.texas.gov/Pages/Home.aspx>

Acquisition, Outside Consultants, Managed Services for Telecommunications and Wireless Services contracts.

According to the Enterprise Contract Management Guide ², all of the Enterprise Contracts are the result of legislation which prescribes the results to be achieved and in some instances the methodology to utilize. These contracts may contain innovative technology and require hybrid or differing terms and conditions. Reimbursement to the vendors may take various forms. For example, certain contracts allow a customer to place an order, and invoicing and payment ensue. Alternatively, DIR may bill the customer for services rendered and pay the vendor directly. In other instances, the vendor may directly bill the customer and DIR is not a party to the transaction. For the Texas.gov contract, there is no reimbursement from DIR to the vendor– this contract is a self-funded model based on fees assessed on users. Finally, when conducting a procurement, DIR develops a contract model as a part of the solicitation. These contracts have been drafted to support the related program and corresponding legislation and are not generally open to massive renegotiation with vendors. When alternative language is negotiated and there is more than one contract awarded, DIR undertakes to amend all contracts under the same program so all vendors are operating under the exact same terms and conditions.

Also, according to the Enterprise Contract Management Guide³, the Section “is responsible for maintaining training curriculum for new employees, program area staff, executive management and the DIR Board on the contract management process and requirements. The Section utilizes a variety of media to train employees including webinars, live training sessions, one-on-one training.

Section 1: Resource Allocation

The section is organized by enterprise program (Texas.gov, Data Center Services, etc.), staffed with a section manager, six contract administration managers, and two contract specialists. A contract administration manager is assigned to each program and is responsible for the execution and administration of the contract, and the contract specialists are assigned to monitor the contracts in Data Center and Information Technology Staff Augmentation Contracts (ITSAC).

The contract managers have experience in contract management ranging from 11 years to 23 years. All had contract or procurement management professional certifications and all six of them have the Certified Texas Contract Manager (CTCM) certification.

² Enterprise Contract Management Guide, About DIR Enterprise Contracts page 3

³ Enterprise Contract Management Guide, About DIR Enterprise Contracts page 4

The Section Manager explained that the work load is re-balanced frequently due to awarding new contracts in areas such as Staffing Services, Wireless contracts, Deliverables Based Information Technology Services (DBITS), and Cloud Services.

From interviews and reviewing workloads of the contract managers it was apparent that completing tasks and the volume of the workloads are challenging. We prepared a spreadsheet to analyze the contract management activity for each of the contract managers. We also reviewed and used data the section developed to help with managing the workloads.⁴ The analysis provided a measureable view of the contract workload of each position. We found that the contract managers can manage their workload. However, we also found that the Manager of Enterprise Contracts tries to evenly distribute the work among the contract managers to ensure that their workload is manageable and in addition to the Manager's own work, the Manager assumes and performs any added task or contracts. This is done to ensure that the staff's workload is manageable. Occasionally, the Manager will assign additional task to staff if there is a lull in their workload.

Issue 1.1 – Enterprise Contract Staffing

The management of the Enterprise Contracts area requires adequate time and resources to review the work product of the Contract Managers. The Manager of the Enterprise Contracts area is taking on additional responsibilities other than the management of personnel and the review of their work product, and is handling the overflow of the actual contract management duties that would normally be assigned to the employees of the division. In addition, the area has acquired additional contract areas such as DBITS, Managed Services, Staffing Services, and Cloud Services in addition to other unexpected enterprise contracts duties and work. The workload of the Enterprise Contract Manager has increased to the point that other management responsibilities may not be adequately addressed.

Recommendation:

In order to alleviate some of the workload pressures in Enterprise Contracts, we recommend that at the least DIR management consider adding an additional Contract Manager to the section. This will help to distribute evenly Enterprise Contract tasks and work. In addition, DIR management should consider not only an additional Contract Manager but also a Contract Specialist to help with smaller contracts, monitoring deliverables and additional tasks. This will allow the Manager more time to concentrate on managing the section and reviews of contracts.

⁴ Enterprise Contracts Personnel Work Assignments (Spreadsheet)

Management Response:

Enterprise Contract Management (ECMS) agrees with this recommendation. The Manager of ECMS will meet with the TSO Director and DIR Management to determine if DIR staffing levels will allow for additional FTEs to be hired. ECMS would benefit greatly from having an additional Contract Manager to handle the additional procurements as well as a Contract Specialist or Program Specialist to assist in the additional monitoring of Enterprise contracts and compliance needs of the division.

Responsible Party: Grace Windbigler

Target Completion Date: September 1, 2014

Attachment 1 – Types of Enterprise Contracts

Below is a summary of the different types of Enterprise Contracts. Most of the summary information was provided by the individual contract managers for each program.

Data Center Services (DCS) contracts – There are three contracts related to DCS. Services provided through these contracts include computer processing, data storage, disaster recovery, facility management services, data center security, network connections to the data centers, and bulk printing and mailing. Customers include 28 state agencies and Angelo State University.

Capgemini- Capgemini is the vendor (multi-sourcing integrator) that manages the services of the two service component providers. They provide service level management, service desk support, program management, business continuity, disaster recovery testing and planning, and financial management. Per the DIR contract manager, this contract has effective dates of Dec. 28, 2011 to Aug. 31, 2018. The DIR website indicates that this contract has a projected contract value of \$127 million.

Xerox State and Local Services is one of the service component providers. They provide infrastructure services for mainframes, servers, networks and data center operations. Per the DIR contract manager, this contract has effective dates of Dec. 30, 2011 to Aug. 31, 2020. The DIR website indicates that this contract has a projected contract value of \$1.1 billion.

Xerox Corporation is the other service component provider. They provide bulk printing and mail services. Per the DIR contract manager, this contract has effective dates of Jan. 23, 2012 to Aug. 31, 2018. The DIR website indicates that this contract has a projected contract value of \$54 million.

Texas.gov contract – Texas.gov is the electronic internet portal for the State of Texas.

Texas.gov offers over 1,000 services online to citizens and businesses and has more than

100 State and Local government customers. There is one contract related to Texas.gov and the vendor is Texas NICUSA, LLC. The contract began in January 2010 and the initial term runs through August 31, 2016. The program operates as a public-private partnership with the State of Texas as the public partner and Texas NICUSA, LLC as the private partner (vendor). The portal generates revenue from fees charged to users and from development and hosting fees. There is no contract amount as the revenue generated by the portal is shared by the two partners (State of Texas and Texas NICUSA, LLC). As the public partner, DIR provides contract management, operational oversight and coordination. As the private partner, the vendor funds and provides the operation and management of all website activities.

Telecommunications contracts –. The DIR manages the statewide communications network consisting of the Capitol Complex Telephone System (CCTS) and the TEX-AN network. The TEX-AN network connects state offices, employees and constituents through networks that offer voice, data and internet connectivity, among other services. The CCTS is a centrally managed phone system which services 90 state agencies located in the Capitol Complex. These operations are cost recovery. Currently, the pattern of contracts allows end user customers a choice of carrier from which to receive local service, data and long distance services.

Tex-AN - There are 10 telecommunication contracts with major telecommunications carriers. Per the DIR contract manager, these contracts have effective dates ranging from January 11, 2011 through December 22, 2016, all of which are an initial 5-year term with options for five year renewals, and projected contract values ranging from \$70 million a year up to \$100 million a year. These contracts provide services for over 770 customers consisting of state agencies, local governments, school districts, colleges and universities, and other public assistance entities. The Tex-AN NG CTS contracts are awarded on a no-quantity-guarantee basis. Because of the time, expense and complexity involved in procuring and awarding multi-vendor telecommunication contracts, DIR has contracted the Tex-AN NG CTSAs for an initial term of five years, with a five-year options to renew thereafter.

Wireless - There are 8 Wireless contracts with vendors to provide customers with hardware and software for Wireless Voice, Wireless Data Services, Pagers, and Mobile Satellite Voice. Per the DIR contract manager, the current contracts were executed beginning in March 2012 with an initial one year and three optional one year terms. The current contracts expire in 2016. Since March 2012, these contracts have generated sales of \$13 million. The projected sales over the four year period is \$382 million. These contracts provide services for over 1250 customers consisting of state agencies, local governments, school districts, colleges and universities, and other public assistance entities.

CCTS –The CCTS is a centrally managed telephone service for 90 state agencies located in the Capitol Complex. The CCTS does not have any contracts. The DIR owns the phone system.

Deliverables Based Information Technology Services (DBITS) - DBITS contracts allow customers to develop specific requirements for IT projects or IT solutions through individual statements of work. There are more than 100 DBITS contracts. Per the contract manager, DBITS contracts are awarded to support nine Information Technology work categories. The contracts are for a term of two years, with the option to renew or extend the term of the agreement for two years in any combination of months or years, to be exercised by DIR at its discretion. The value of any one Statement of Work may not exceed \$10 million, including all renewals, extensions and change orders. The sales volume for all DBITS services purchased through the contracts since inception in 2008 is \$140,657,101. The customers eligible to procure services from DBITS contracts include state agencies, local governments, school districts, institutions of higher education, assistance organizations and state agencies and political subdivisions of other states

IT Staffing Services (Staff Augmentation) - There are 86 Information Technology Staffing Augmentation Contract (ITSAC) contracts. These contracts are for external resources (outside contractors) hired to accomplish an IT task or project. Per the DIR contract manager, the current contracts were executed September 1, 2009 with a two year initial term and one optional two year term. The current contracts expired August 31, 2013. Through January 2013, these contracts have generated approximately \$373 million. These contracts provide services for 125 customers consisting of state agencies, local governments, school districts, colleges and universities, and other public assistance entities. State agencies are the prominent users of the contracts. In September 2013, 224 new ITSAC contracts were executed and are currently being administered and monitored by the ECMS Section.

Major Software Acquisitions – Major Software Acquisition contracts are issued to provide software to DIR eligible customers. Eligible customers include Texas state agencies, institutions of higher education, K-12, local governments, political subdivisions, assistance organizations and out of state customers. In some instances, DIR will negotiate publisher agreements with the major software publishers such as Microsoft and Adobe to set pricing and discounts at an enterprise level to aggregate the volume for the State of Texas. In other cases, DIR contracts with publishers or authorized resellers to offer software to customers at set discounts and pricing. Major software publishers include, but are not limited to: Microsoft, Oracle, Adobe, Software AG, Novell, etc.

Outside Contracts – The Section also handles the outside contracts for DIR. These contracts are for external resources (outside contractors) hired to accomplish a task or

project which is internal to DIR as an agency. These may include contracts for Information Technology Security, Internal Audit, Records Management, Accounting Services, Outside Legal Counsel Services, TexasSure Contract, Security Services Contracts, or some other DIR function.

Cloud Services and Managed Services – The Cloud Services procurement has been transferred to the ECMS. One of the ECMS Contract Managers handles the contract management for IT managed service solutions and the Cloud Services contracts. (These contracts are now in the negotiation stage.). She is currently managing the Cloud Services procurement as well as internal purchases such as the Dell Agreement for agency desktops and laptops and the HP Lease Agreement for Printers.